



Ninety – Sixth Legislature – First Session – 1999
Introducer's Statement of Intent
LB 62

Chairperson: Senator David M. Landis
Committee: Banking, Commerce, and Insurance
Date of Hearing: January 19, 1999

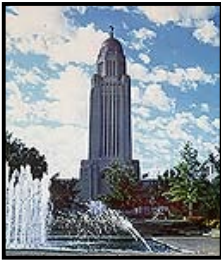
The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 62 would amend four sections of the Nebraska Uniform Custodial Trust Act to accomplish two general purposes: first, it would apply the Nebraska Uniform Prudent Investor Act to the Nebraska Uniform Custodial Trust Act; and second, it would repeal non-uniform provisions (that is, text not submitted to the states by the uniform law commissioners) from three sections of the Nebraska Uniform Custodial Trust Act as originally enacted by LB 51 (Landis) of 1997.

Section 1 of the bill would amend section 30-3503 of the Nebraska Uniform Custodial Trust Act to repeal non-uniform language which provides that a person may create a custodial trust of property by, among other things, a written transfer of the property to another person, evidenced by registration “under sections 30-2801 to 30-2805”. This internal reference is erroneous. It refers to optional registration of trusts by filing a statement in the county court. LB 62 would correct this error.

Section 2 of the bill would amend section 30-3508 of the Nebraska Uniform Custodial Trust Act to apply the Nebraska Uniform Prudent Investor Act (sections 8-2201 to 8-2213) to custodial trustees. The Nebraska Uniform Prudent Investor Act sets forth rules, in the nature of default rules, which govern duties owed by trustees to beneficiaries in the investment and management of trust assets. The Nebraska Custodial Trust Act and the Nebraska Prudent Investor Act were both enacted in 1997 as LB 51 and LB 54, respectively. These two bills moved together through the legislative process in such a way that there was not a good opportunity to adopt amendments which would have made the custodial trust bill subject to the prudent investor bill.

Sections 3 and 4 of the bill would repeal non-uniform language borrowed from North Carolina's 1995 version of the Uniform Custodial Trust Act, described as follows. Section 3 of the bill would amend section 30-3518 of the Nebraska Uniform Custodial Trust Act to repeal non-uniform subsection (d). This subsection requires that a writing signed by the beneficiary, or the instrument creating the custodial trust, which designates someone other than the beneficiary's estate to receive the custodial trust property upon the beneficiary's death, must be signed by at least two witnesses and must be acknowledged by the beneficiary or transferor before a notary public. Section 4 would amend section 30-3519 of the Nebraska Uniform Custodial Trust Act to repeal non-uniform witness and acknowledgment provisions from the forms of the instrument



Ninety – Sixth Legislature – First Session – 1999
Introducer's Statement of Intent

creating a custodial trust. According to the commentary in the North Carolina statutes, use of these non-uniform provisions in an instrument creating a custodial trust is necessary only in conjunction with the requirements of the non-uniform provisions on which subsection (d) of section 30-3518 is based.

Principal Introducer:

Senator David M. Landis